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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

DARRYL JONATHAN PARRIS,

Defendant and Appellant.

2d Crim. No. B204996
(Super. Ct. No. 1276546, 1275494)
(Santa Barbara County)

Appellant appeals an order revoking his probation in two separate cases and imposing a state prison term of six years and eight months.

On July 11, 2007, appellant pleaded no contest to obstructing a telephone line. He had damaged a phone when his girlfriend tried to make a 911 call. (Pen. Code, § 591.)¹ The court suspended imposition of sentence and granted appellant five years probation (case No. 1275494). The court indicated that, if appellant successfully completed a batterer's program and did not commit a new offense or violate probation, it would reduce the conviction to a misdemeanor. (§ 17, subd. (b).) The court prohibited appellant from contacting the victim (his girlfriend) or their children.

On Sept. 5, 2007, appellant pleaded no contest to felony stalking (case No. 1276546; § 646.9, subd. (b)) and admitted the special allegation that he committed the

¹ All further statutory references are to the Penal Code.

stalking offense while released from custody on his own recognizance. The trial court suspended imposition of sentence and granted appellant five years probation.

Appellant was released on October 12, 2007 and, the following morning, he entered the victim's yard and was arrested for violating a protective order. (§ 273.6.) The court revoked his probation in case Nos. 1276546 and 1275494. It found appellant in violation of probation. The court imposed a sentence of four years for the stalking offense (case No. 1276546) consecutive to eight months for obstructing a telephone (case No. 1275494), with a two-year enhancement for committing the offense while released on his own recognizance. (§ 12022.1, subd. (b).) Appellant challenges the trial court's finding that he violated probation.

We appointed counsel to represent appellant in this appeal. After reviewing the record, counsel filed an opening brief raising no issues and requesting this court to independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On May 2, 2008, we advised appellant that he had 30 days in which to submit a written brief or letter stating any contentions or arguments he wished us to consider. We granted two extension requests and, on August 7, he filed a letter brief, challenging the evidence presented at the probation violation hearing.

The victim, her minor daughter, and their neighbor testified at the hearing. On October 13, 2007, at approximately 6:15 a.m., the victim heard a scooter outside her window. She saw appellant 15-20 feet from her window, riding away from her house. On cross-examination, the victim stated she was not wearing her contact lenses on the morning of the offense and the weather was rainy or foggy. The victim's daughter testified that she saw her father ride his scooter from the back to the front of the house. The neighbor, who stored the scooter in her shed, did not see appellant but heard the scooter. The lock on the shed had been cut and the scooter was missing.

In his defense, appellant offered the testimony of his wife, to whom he has remained married, despite his relationship with the victim. His wife testified that she picked appellant up at jail upon his release, and he spent the night with her. He did not leave her house the following morning.

Appellant contends in his letter brief that the victim could not have identified him because she was not wearing her contact lenses and visibility was limited by the weather. He argues that his daughter's testimony was inconsistent and that the neighbor did not see him on the scooter.

The trial court has broad discretion in determining whether to revoke probation. (*People v. Rodriguez* (1990) 51 Cal.3d 437, 443, 445.) Here, the court assessed the evidence and credited the testimony of the prosecution witnesses that appellant had entered the victim's property. Contrary to appellant's contention, substantial evidence supports the trial court's finding that he violated the terms of his probation by disobeying a court order that he not contact the victim. We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment (order revoking probation) is affirmed.

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COFFEE, J.

We concur:

YEGAN, Acting P.J.

PERREN, J.

James F. Rigali, Judge
Superior Court County of Santa Barbara

Miriam R. Arichea, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.